

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JOHN ROBERT DEMOS, JR.,

Petitioner,
v.

KING COUNTY SUPERIOR COURT,
et al.,

Respondents.

CASE NO. C21-1504 BHS

ORDER ADOPTING REPORT AND RECOMMENDATION

This matter comes before the Court on the Report and Recommendation (“R&R”) of the Honorable David W. Christel, United States Magistrate Judge, Dkt. 2, and Petitioner John Demos, Jr.’s objections to the R&R, Dkt. 3.

In November 2021, Petitioner filed a proposed petition seeking release from confinement, which the Court construes as a petition for habeas corpus under 28 U.S.C. § 2254. Dkt. 1. Petitioner is under pre-filing bar orders in a number of courts, including this Court, the Eastern District of Washington, the Washington State courts, the Ninth Circuit Court of Appeals, and the United States Supreme Court. *See, e.g., Demos v. Storrie*, 507 U.S. 290, 291 (1993) (per curiam). An order of this Court provides for the return without filing of any petition that seeks an extraordinary writ pursuant to 28 U.S.C.

1 §§ 1651, 2253, or 2254, unless accompanied by the filing fee. *See Demos v. Stanley*, 97-
2 mc-0031-JLW, Dkt. 1 (W.D. Wash. Mar. 13, 1997).

3 Petitioner did not accompany his § 2254 petition with the filing fee, and Judge
4 Creatura thus issued the instant R&R recommending the petition's dismissal as
5 improperly filed. Dkt. 2. The R&R further recommends that Petitioner's motion for leave
6 to proceed *in forma pauperis* and a certificate of appealability be denied. *Id.* Petitioner
7 objects to the R&R. Dkt. 3.

8 The district judge must determine de novo any part of the magistrate judge's
9 disposition that has been properly objected to. The district judge may accept, reject, or
10 modify the recommended disposition; receive further evidence; or return the matter to the
11 magistrate judge with instructions. Fed. R. Civ. P. 72(b)(3).

12 Petitioner's objections do not address his failure to pay the filing fee as required
13 by the Court's previous order. The Court agrees with the R&R that this matter should be
14 dismissed without prejudice because of Petitioner's failure to pay the filing fee.

15 The Court having considered the R&R, Petitioner's objections, and the remaining
16 record, does hereby find and order as follows:

- 17 (1) The R&R is **ADOPTED**;
- 18 (2) Petitioner's motion to proceed *in forma pauperis*, Dkt. 1., is **DENIED**;
- 19 (3) Petitioner's proposed petition, Dkt. 1-1, is **DISMISSED without**
20 **prejudice**;
- 21 (4) Certificate of Appealability is **DENIED**; and

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1 (5) The Clerk shall enter a JUDGMENT and close the case.

2 Dated this 18th day of January, 2022.

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6 BENJAMIN H. SETTLE
7 United States District Judge
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